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HIGH COURT OF CHHATTISGARH: BILASPUR

REVIEW PETITION NO. 35 OF 2007

Petitioner: Smt. Pramila Sinha

Versus

Respondents: Chhattisgarh State Election Commission and another.

Post for order 19-7-2007

Sd/-
Satish K. Agnihotri
Judge

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HIGH COURT OF CHHATTISGARH: BILASPUR

REVIEW PETITION NO. 35 OF 2007

PETITIONER		Smt. Pramila Sinha, aged about 44 years, wife of Uday Ram Sinha, Disqualified President, Nagar Panchayat – Abhanpur, District Raipur (CG).
	Versus	
RESPONDENTS	1)	Chhattisgarh State Election Commission, through – its Secretary, Mahanadi Khand, Mantralaya, Raipur (CG).
	2)	Collector-cum-District Election Officer, Raipur (CG).

(Prayer for review of the order dated 29-3-2007)

SB: Hon'ble Mr. Justice Satish K. Agnihotri

Present: Shri Prashant Jayaswal, Sr. Advocate with Shri Jitendra Nande, counsel for the petitioner.

Shri Prashant Mishra, Sr. Advocate with Shri B.D. Guru, counsel for the respondents.

ORDER
(Passed on 19th July, 2007)

By this petition, the petitioner seeks review of the order dated 29-3-2007 passed by this Court in Writ Petition (C) No. 1866/2007.

2) Heard learned counsel for the parties.

3) The facts in nut shell are that this Court vide order dated 29-3-2007 dismissed the petition of the petitioner holding that the respondent No.1 i.e., Chhattisgarh State Election Commission in its order dated 21-2-2007 (Annexure A/2) has considered all the points raised in the petition. It was further observed that the petitioner was

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required under the provisions of Section 32-B of the Chhattisgarh Municipalities Act, 1961 (for short, "the Act, 1961") to lodge the account of expenses in the election within the prescribed period of thirty days, but the same was done after five months i.e., on 22-6-2005 and that there was no infirmity, illegality or irregularity in the order dated 21-2-2007 passed by the respondent No.1.

4) The review petitioner has sought for review of the order on the grounds that this Court while hearing the main petition, has not considered the fact that the petitioner was never given show cause notice by the State Election Commission, and the order dated 21-2-2007 was passed without considering the petition of the review application and thirdly, the order passed by the State Election Commission was perverse as the same was contrary to the report given by the Enquiry Officer.

5) Learned counsel appearing for the petitioner would submit that this Court has not considered the ground No. 6.5 averred in the writ petition. However, on query as to whether the same was argued or not, learned counsel expressed his ignorance about the fact. The State Election Commission vide its order dated 21-2-2007 running into five pages has considered all the aspects of the matter and has come to the right conclusion that the statement of account was not filed within the prescribed time, thus the same resulted into disqualification under Section 32-C of the Act, 1961.

6) So far as issue of show cause notice is concerned, the petitioner has filed a review application pursuant to the order dated 2-2-2007

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passed by this Court in Writ Petition No.4456 of 2006. Therefore, the question of show cause notice is not available to the petitioner. The petitioner has full opportunity before the State Election Commission to put-forward her case.

7) The Supreme Court in the matter of **Vivekanand Sethi Vs. Chairman, J&K Bank Ltd. and others**[1] observed at para 22 as under:

> " The principle of natural justice, it is trite, is no unruly horse. When facts are admitted, an enquiry would be an empty formality. Even the principle of estoppel will apply. (*See Gurjeewan Garewal (Dr.) v. Dr. Sumitra Dash)* The principles of natural justice are required to be complied with having regard to the fact situation obtaining therein. It cannot be put in a straitjacket formula. It cannot be applied in a vacuum without reference to the relevant facts and circumstances of the case. (*See State of Punjab v. Jagir Singh and Karnataka SRTC v. S.G. Katturappa*)".

8) The Supreme Court in the matter of **M/s. Northern India Caterers (India) Ltd. Vs. Lt. Governor of Delhi**[2], observed at para 8 as under:

> "8. It is well settled that a party is not entitled to seek a review of a judgment delivered by this Court merely for the purpose of a rehearing and a fresh decision of the case. The normal principle is that a judgment pronounced by the Court is final, and departure from that principle is justified only when circumstances of a substantial and compelling character make it necessary to do so. Sajjan Singh v. State of Rajasthan (1965) 1 SCR 933 at p. 948. For instance, if the attention of the Court is not drawn to a material statutory provision during the original hearing, the Court will revise its judgment. G.L. Gupta v. D.N. Mehta (1971) 3 SCR 748 at p.760. The Court may also reopen its judgment if a manifest wrong has been done and it is necessary to pass an order to do full and effective justice. O.N. Mohindroo v. Dist. Judge, Delhi (1971) 2 SCR 11 at p.27. Power to review its judgments has been conferred on the Supreme

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[1] (2005) 5 SCC 337
[2] AIR 1980 SC 674

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> Court by Art. 137 of the Constitution, and that power is subject to the provisions of any law made by Parliament or the rules made under Art. 145. In a civil proceeding, an application for review is entertained only on a ground mentioned in O. XLVII, Rule 1 of the Code of Civil Procedure and in a criminal proceeding on the ground of an error apparent on the face of the record. (Order XL, R.1, Supreme Court Rules, 1966). But whatever the nature of the proceeding, it is beyond dispute that a review proceeding cannot be equated with the original hearing of the case, and the finality of the judgment delivered by the Court will not be reconsidered except 'where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility. Chandra Kanta v. Sheikh Habib, (1975) 3 SCR 933."

9) The petitioner has not pointed out any manifest error on the record and the petitioner has not further brought into the notice, any new fact which could not be produced earlier despite diligent efforts made by the petitioner. It is well settled principles of law that the review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 of the Code of Civil Procedure, even in exercise of review jurisdiction by the High Court under Article 226 of the Constitution. The applicant has not produced any new ground for review, except the same ground which has been considered and decided in the writ petition.

10) Principle of law is well settled by several judicial pronouncements of the Hon'ble Supreme Court in the cases of **Smt. Meera Bhanjan Vs. Smt. Nirmala Kumar Choudhary**[3] **Lily Thomas, etc. Vs. Union of India and others**[4], **Ajit Kumar Rath Vs. State of Orissa and others**[5], **Government of T.N. and others Vs. M. Ananchu Asari and others**[6],

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[3] AIR 1995 SC 455
[4] AIR 2000 SC 1650
[5] AIR 2000 SC 85
[6] (2005) 2 SCC 332

and Kerla State Electricity Board Vs. Hitech Electrothermicsm & Hydropower Ltd. and others[7].

11) Further, the next contention that the order dated 25-5-2006 was contrary to the report of the Collector. This Court has already considered the said order vide order dated 2-2-2007 and granted liberty to the petitioner to file a review petition and in the review order, the State Election Commission has considered all the facts in detail.

12) Applying the well settled principles of law to the present case, there is no ground available for review of the order dated 29-3-2007. Under the garb of the review petition, the petitioner seeks an opportunity to argue the entire case afresh which would amount to convert the review petition into an appeal and the same is not sustainable in law.

13) As a result and in view of the foregoing, this review application is dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Raju

[7] (2005) 6 SCC 651